

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:08-cr-35

v.

HON. JANET T. NEFF

ROBERT FREDRICK ABBOTT,

Defendant.

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**MEMORANDUM OPINION AND ORDER**

Defendant Robert Fredrick Abbott has filed a motion for modification or reduction of sentence (Dkt 63) pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 750 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to cocaine base (crack cocaine), and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2011. U.S.S.G. § 1B1.10(c).

However, defendant is not entitled to relief on the facts of his case. The defendant's base offense level was driven by the defendant's career offender status. In addition, the amount of cocaine base in this case (32.79 grams) receives the same offense level under the revised and retroactive guidelines. Therefore, under any calculation defendant does not qualify for a reduction in his sentence.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 63) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

IT IS FURTHER ORDERED that defendant's request for court appointed counsel is also DENIED.

DATED: January 26, 2012

/s/ Janet T. Neff  
JANET T. NEFF  
United States District Judge